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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DAVID SGALAMBO, Individually and on
Behalf of All Others Similarly Situated,

Plaintiff,

-against-

CRAIG MCKENZIE, et al.,

Defendants.

Civil Action No. 1:09-cv-10087-SAS

DEFENDANTS' NOTICE OF MOTION
TO DISMISS PLAINTIFF'S AMENDED
COMPLAINT

Oral Argument Requested

PLEASE TAKE NOTICE that as soon as the matter may be heard in the courtroom of the Honorable Shira S. Scheindlin, United States District Judge, Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, New York 10007-1312, defendants Craig McKenzie, Leif Snethun, Michael E. Coolen, Gregory S. Noval and Leigh Bilton, by and through their undersigned attorneys, Morrison & Foerster LLP, 1290 Avenue of the Americas, New York, New York 10104, shall and do move for an order dismissing with prejudice plaintiff's Amended Complaint, filed April 30, 2010, pursuant to Rules 9(b), 12(b)(1) and (6) of the Federal Rules of Civil Procedure and Section 21D of the Private Securities Litigation Reform Act of 1995 (the "Reform Act"), 15 U.S.C. § 78u-4, and for such other and further relief as the Court may deem just and proper.

This motion is made upon the grounds set forth in the accompanying memorandum of law, the Declaration of Damion K. L. Stodola dated June 4, 2010, all prior proceedings had

herein, and such further written and oral argument as may be presented at or before the time this Motion is taken under submission by the Court.

Dated: New York, New York
June 4, 2010

MORRISON & FOERSTER LLP

By: /s/ Jack C. Auspitz

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